In the High Court of Judicature at Madras

Dated:28.09.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice S. TAMILVANAN

Contempt Petition No.232 of 2006

Pallavaram Cantonment
Merchants Association
rep. by its General Secretary
87 B, Indira Gandhi Road
Pallavaram, Chennai 43. .. Petitioner

vs.

1. C.P.M. Jayapaul,
President
Cantonment Small Traders
Association
(Regd.) 128 B, Basaar Road
Pallavaram, Chennai 43.

2. Amol B. Jagtat
Executive Officer
Cantonment Board
St. Thomas Mount
Chennai 16.

3. Deputy Commissioner of Police (South)
St. Thomas Mount, Chennai 16.

4. Assistant Commissioner of Police
(Traffic Department)
St. Thomas Mount, Chennai 16.

5. Sub Inspector
S-5 Pallavaram Police Station
Chennai 43.
(R.3 to R.5 are impleaded as
per order of this Court dated
14.09.2006 made in Sub.Appln.
No.227 of 2006) .. Respondents

Contempt Petition filed under Sections 10 & 12 of Contempt of Courts Act, 70 of 1971 as stated therein.

For petitioner :Mr. K. Venugopal

For respondent :Mr. C. Krishnan, Sr. counsel
for Mr. R. Murali for R.2
Mr. Ramakrishnan for R.1

ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

Pallavaram Cantonment Merchants Association through its General Secretary has filed this contempt petition seeking to punish the respondents for disobeying the order of this Court dated 03.05.2005 made in W.A.No.952 of 2005.

2. Heard the learned counsel for the petitioner as well as the respondents.

3. By order dated 03.05.2005, a Division Bench of this Court disposed of Writ Appeal No.952 of 2005 with a direction to the appellant therein, Cantonment Small Traders Association to hand over the vacant possession to the first respondent therein, viz., Executive Officer, Cantonment Board, St. Thomas Mount, Chennai 16, within two weeks from the date of said order. In the same order, the Division Bench has observed that in the event of any default or failure to comply with the above order, the Cantonment Board is free to evict them with the help of police. It is not in dispute that the said order has been confirmed by the Supreme Court vide order dated 16.12.2005 made in SLP.No.12523 of 2005.

4. Pursuant to the direction of this Court, respondents 1 and 2 filed separate counter affidavits highlighting their stand. Among the counter affidavits filed by them, the counter affidavit of the second respondent, the Executive Officer, Cantonment Board, St. Thomas Mount, Chennai 600 016, is relevant. In his counter affidavit, after narrating the steps taken, the second respondent has finally stated that as on date, no vendor is allowed to sit and sell vegetables, fruits, flowers etc. as alleged by the petitioner. The counter affidavit is duly sworn on 20th June, 2006.

5. During the course of hearing, at the instance of the petitioner, direction was issued by this Court to the Assistant Commissioner of Police (Traffic Department), St. Thomas Mount, Chennai 600 016, to make a surprise inspection to Bazaar Road, Pallavaram, Chennai, whether encroachments in the form of petty shops, etc., are still in existence, and this Court also directed the said Officer to submit a report regarding eviction of those persons as per the orders of this Court and assistance rendered by the police.

6. Pursuant to the said directions, Mr. V. Venkatramulu, Assistant Commissioner of Police (Traffic Department), St. Thomas Mount, Chennai 16, has filed an affidavit dated 28.09.2006, wherein it is stated that the second respondent required the assistance of Police in his letter dated 16.02.2006 to remove the unauthorized encroachments on the both sides of the Bazaar Road, Pallavaram Cantonment. It is further stated that to render assistance to remove the encroachments, 50 police personnel and an Assistant Commissioner of Police were deployed. According to him, with the help of the police personnel and the staff of the Cantonment Board, the encroachments were removed on

18.02.2006 and this fact has been published in the Tamil daily, "Daily Thanthi" dated 19.02.2006. Finally, the Assistant Commissioner has stated that as per the instructions of the Deputy Commissioner of Police (South) St. Thomas Mount, Chennai 16, strict vigil has been maintained to prevent any further encroachment and steps are being taken to maintain proper traffic movement and the same is continuing till date. The above statement in the form of affidavit dated 28.09.2006 of the Assistant Commissioner of Police is placed on record.

7. In view of the assertion made by the Executive Officer, Cantonment Board as well as the information furnished by the Assistant Commissioner of Police in his affidavit dated 28.09.2006, we are of the view that no further adjudication is required in this contempt petition. However, both the authorities, viz., Executive Officer, Cantonment Board and the Police concerned are directed to maintain strict vigil to prevent further encroachment in order to maintain free-flow of traffic in the area in question.

With the above observation, this contempt petition is closed and the contemners, viz., respondents 1 and 2 are discharged.

kh

[vsant 8176]